

FILED  
CLERK

1:27 pm, Sep 21, 2018

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
COMMUNITY ASSOCIATION  
UNDERWRITERS OF AMERICA, INC.

Plaintiff,

-against-

ADVANCED CHIMNEY, INC., et al.

Defendants.

-----X  
LIBERTY INSURANCE CORPORATION,

Plaintiff,

-against-

ADVANCED CHIMNEY INC., et al.

Defendants.

-----X

**APPEARANCES:**

**de Luca Levine LLC**

*Counsel for Community Association Underwriters of America, Inc.*  
100 Church Street Suite 800  
New York, NY 10007

By: Daniel J. de Luca, Esq., Of Counsel

**Clark & Fox**

*Counsel for Community Association Underwriters of America, Inc.*  
404 5th Avenue 3rd Floor  
New York, NY 10018

By: Joshua Levi Seltzer, Esq., Of Counsel.

**Harris, King, Fodera, and Correia**

*Counsel for Liberty Insurance Corporation*  
1 Battery Park Plaza 30th Floor  
New York, NY 10004-1437

By: Mark S Labe, Esq., Of Counsel

**MEMORANDUM OF  
DECISION AND ORDER**

2:17-cv-01207 (ADS)(GRB)

2:17-cv-06710 (ADS)(GRB)

**Law Office of Andrea G. Sawyers**

*Counsel for Advanced Chimney, Inc. and Advanced Maintenance, Inc.*

3 Huntington Quadrangle Suite 102s

Melville, NY 11747

By: David I. Robinson, Esq., Of Counsel.

**Hannum Feretic Prendergast & Merlino LLC**

*Counsel for Advanced Chimney, Inc. and Advanced Maintenance, Inc.*

55 Broadway, Suite 202

New York, NY 10006

By: Kevin John Stimpfl, Esq., Of Counsel.

**Bello Larkin**

*Counsel for Thomas Halstead and Judith Katz*

150 Motor Parkway Suite 405

Hauppauge, NY 11788

By: Wayne Paul Esposito, Esq., Of Counsel.

**Westerman Ball Ederer Miller & Sharfstein, LLP**

*Counsel for Carl Vernick*

1201 RXR Plaza

Uniondale, NY 11556

By: William Edward Vita, Esq., Of Counsel.

**SPATT, District Judge:**

By letter dated March 5, 2018, Advanced Chimney, Inc. and Advanced Maintenance Inc. d/b/a/ Advanced Chimney, on behalf of, and with the consent of all parties, requested that the Court consolidate the above-captioned actions, Case Numbers 17-cv-01207 (“the First Filed Action”) and 17-cv-6710 (“the Second Filed Action”), for all purposes. Both these actions are subrogation actions seeking recovery for property damage allegedly resulting from a fire that occurred at a condominium building.

Pursuant to Federal Rule of Civil Procedure 42(a), the Court grants the parties’ request for consolidation for all purposes, as it finds that these actions involve common questions of law and fact. Accordingly, it is hereby

**ORDERED** that the March 5, 2018 letter motion to consolidate Case Numbers 17-cv-01207 and 17-cv-6710 is granted; and it is further

**ORDERED** that the Clerk of Court is directed to consolidate the two actions set forth above under Case Number 17-cv-01207 and Case Number 17-cv-6710 is to be closed; and it is further

**ORDERED** that the consolidated action shall proceed under Case Number 17-cv-01207, and that all filings are to be made only under Case Number 17-cv-01207; and it is further

**ORDERED** that the Plaintiffs in each action are directed to file, within fourteen days of the date of this Order, a Consolidated Complaint incorporating the claims of the Complaint in the First Filed Action and the Complaint in the Second Filed Action. The Consolidated Complaint shall not assert new allegations against the Defendants and the Defendants, having answered the Complaints in the First Filed Action and the Second Filed Action, will be under no obligation to file additional answers to the Consolidated Complaint; and it is further

**ORDERED** that the Defendants are directed to file, within fourteen days of the date of this Order, a Consolidated Third Party Complaint incorporating the claims of the Third Party Complaint in the First Filed Action and the Third Party Complaint in the Second Filed Action. The Consolidated Third Party Complaint shall not assert new allegations against the Third Party Defendants. Third Party Defendants that have already answered the Complaints in the First Filed Action and the Second Filed Action will be under no obligation to file additional answers to the Consolidated Third Party Complaint. Third Party Defendants who are required to answer by October 4, 2018 shall answer by the later of October 4, 2018 or seven days after the filing of the Consolidated Third Party Complaint. This Order shall not affect the deadlines for any Third Party Defendants subject to a motion seeking a default judgment against them.

**SO ORDERED.**

Dated: Central Islip, New York  
September 21, 2018

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge